

How Bills Amend Statutes

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Summary

Many bills proposed in Congress address subjects on which law already exists, and their enactment would result in changes in the body of existing law. This report describes how new legislation may commonly express its intention either explicitly to amend existing law or implicitly to supersede its provisions. It does not present guidance for drafting legislation; for that purpose, recourse to the Office of Legislative Counsel is appropriate. Nor does it offer guidance for interpreting statutory language, which may be obtained by consulting the American Law Division of CRS. For more information on legislative process, see <http://www.crs.gov/products/guides/guidehome.shtml>.

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Altering Law

A bill (or joint resolution) may directly alter the text of current law only if its provisions are formulated explicitly as amendments to that text. A provision amending existing law may either (1) insert new text in the law; (2) strike out text in the law; or (3) strike out text and insert new text in its place. (These three forms of amendment to law parallel the three forms of amendment to a bill in the course of the legislative process.) By inserting new provisions, an amendatory bill can supplement current law, and by striking out provisions of current law, it can repeal them. By amendments to strike and insert, an amendatory bill may make specific alterations or modifications in existing provisions of law.

Legislative language explicitly altering or modifying provisions of current law may take several forms. An amendatory bill may identify each separate point in existing statutes at which text is to be stricken out and, for each, set forth text to be inserted. Alternatively, it may propose to strike out an entire provision, then set forth, to be inserted in lieu, a new text, incorporating all the changes in language desired at every point in the provision. Finally, it may simply direct that a specified provision “be amended so as to read” in the way specified by the text that follows. The first approach may aid in determining what changes the bill would make in existing law, but the others may more readily reveal the overall effect of the changes.

Whichever approach is used, House Rule XIII, clause 3(e)(1) (the “Ramseyer rule”) and Senate Rule XXVI, paragraph 12 (the “Cordon Rule”) require that, when a committee reports a bill amending existing law, it must provide, in its report or otherwise, a “comparative print” showing how the bill would alter that law. This comparative print can be of great aid in ascertaining the intended effect of amendatory legislation. The intended effects of amendments only to insert, or only to strike out, may be easier to determine from their text, although they are also to be shown in the comparative print.

Forms of Citation

Amendments to existing law must be made to the official evidence of the law, which in most cases means either the *United States Code* or the *Statutes at Large*. The *Statutes at Large* is a chronological compilation of the laws enacted by Congress; the *U.S. Code* arranges laws topically under 50 titles. Congress has enacted 20 of these 50 titles (and part of one other) into what is known as “positive law.” If a title has been so enacted, its text constitutes legal evidence of the laws in that title, and a bill would properly identify existing law being amended by citing the *U.S. Code* (e.g., “50 U.S.C. 234b”). If the law being amended has not been enacted into “positive law,” a bill would properly identify the law by either its short title (“the XYZ Act of 1999”), public law number (“P.L. 101-987”), or page in the *Statutes at Large* (“123 Stat. 456”). Often, existing provisions of law have previously been amended; in those cases, the bill may refer to the act “as amended” (e.g., “ABC Act of 1987, as amended”).

Specific provisions of an act are identified by section number (or by the designations of other, smaller or larger, subdivisions of the act). When a bill amends an existing statute, section numbers of the bill will not generally correspond to those of the statute being amended. For example, section 102 of a *bill* may set forth a rewritten version of section 203 of some existing *act*. In general, in this context, section numbers within quotation marks will refer to provisions of a cited existing law; those having none designate the sections of the bill itself.

The short title of a bill to amend existing law may sometimes identify it as such (e.g., “Clean Water Act Amendments of 2001”). Bills identified as “reauthorizations,” too, generally include amendments to the previous law being reauthorized. They typically extend existing programs either: (1) by amending provisions of statute (such as “sunset” provisions) that specify an expiration date; or (2) by inserting text covering additional fiscal years into provisions of statute that authorize appropriations for the programs. These reauthorizing bills frequently also amend existing statutory language to make substantive alterations in the programs in question.

Supplementing or Superseding Law

Bills that do not explicitly insert or strike out provisions of existing statutes may, nevertheless, also have the effect of supplementing or superseding current law. In these cases, however, the intended relation between bill and law can be ambiguous, and these ambiguities may need to be resolved through judicial interpretation or removed through further enactments.

If provisions in a new enactment address a subject already dealt with by existing law, they may supplement that law even without explicitly amending it. Absent a conflict between an existing and a new provision, courts normally presume that the two are intended to be read together, and will often attempt to give both the fullest effect possible. On the other hand, provisions of a new law may be read as conflicting with those of an existing statute. On the grounds that a later enactment always supersedes an earlier one, the new provisions might then be treated as overriding previous law. In some cases, however, a bill may preface new provisions with such a phrase as, “notwithstanding any other provision of law.” Inasmuch as this phrase leaves unexpressed which existing provisions it relates to, it may have unforeseen consequences for subsequent interpretation.

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